



COMMONWEALTH OF MASSACHUSETTS
**Board of Registration
of
Hazardous Waste Site Cleanup Professionals**

**MINUTES
of
BOARD MEETING**

Held on
September 30, 2009

Meeting Location: Buttonwood Park Zoo
425 Hawthorn Street
New Bedford, Mass.

Prepared by: Terry Wood

[Approved: October 29, 2009]

1. **Call to Order:** Chairperson Janine Commerford called the meeting to order at 2:46 p.m. The other Board members present were Gail Batchelder, Deborah Farnsworth, Kirk Franklin, Jack Guswa, Gretchen Latowsky, and Robert Luhrs. Christophe Henry, Kelley Race and Debra Stake were absent. The LSP Board staff members present were Lynn Read, Brian Quinlan, Terry Wood, and Al Wyman. Also present were Wes Stimpson of the LSP Association and Deborah Marshall of MassDEP.
2. **Announcements:** Ms. Commerford announced that Executive Director Allan Fierce will be retiring from the Board effective December 1st.
3. **Agenda:** The Board agreed to add the agenda item "Whether to allow an LSP to go on inactive status more than once in the same license renewal cycle" to the draft agenda after Item E. Inactive Status Report.
4. **Minutes:** The Board reviewed the draft minutes of the meeting of the Board held on August 19, 2009. A minor correction was requested on page 3. **A motion was made and seconded to approve the minutes as corrected. The motion was approved unanimously.**
5. **Reports From Recent Quasi-judicial Sessions:** The staff requested and received the Board's unanimous consent to publish in the minutes of this meeting the following report from a previous quasi-judicial session of the Board.

Final Order Re: Complaint 07C-08

At a quasi-judicial session held on August 19, 2009, Mr. Guswa and Ms. Wood, two of the three Complaint Review Team members for Complaint 07C-08, presented the terms of a proposed early agreement for discipline that, if approved, would resolve this Complaint prior to the presentation of a CRT report or the issuance of an Order To Show Cause.

The other members of the Board who were present were as follows: Ms. Batchelder, Mr. Franklin, Mr. Henry, Mr. Luhrs, Ms. Latowsky, Ms. Race, and Ms. Stake.

Ms. Farnsworth, the 3rd member of the CRT, was absent. Ms. Commerford was recused and had left the room before the CRT began its presentation.

The CRT members briefly explained the possible violations being investigated by the CRT at five sites.

The CRT members further explained that they had interviewed the LSP and discussed the sites at issue. Thereafter, the LSP and the CRT agreed jointly that, subject to the Board's approval, it would be appropriate at this early stage of this case to resolve it with an Administrative Consent Order ("ACO") that resulted in the LSP's license being suspended for a period of eighteen (18) months plus a requirement that the LSP obtain 24 additional continuing education credits in the areas of site assessment, indoor air assessment, and risk characterization. Thus, both the CRT and the LSP were recommending that the Board approve an early agreement for discipline in this form.

The CRT members present explained that, although they had yet to conclude their investigation or prepare a CRT report, their investigation had revealed what they believed were sufficient grounds to support the resolution of this Complaint in this manner.

After answering questions about the proposed resolution, the CRT members were recused and left the room.

The seven remaining Board members discussed the proposed agreement for discipline. At the conclusion of the discussion, a motion was made and seconded to accept the proposed discipline, i.e., an 18-month suspension plus 24 additional credits in the areas of site assessment, indoor air assessment, and risk characterization. The motion was approved by a vote of 4 - 3. Voting in favor of the motion were Mr. Henry, Mr. Luhrs, Ms. Race, and Ms. Stake. Voting against the motion were Ms. Batchelder, Mr. Franklin, and Ms. Latowsky.

Mr. Luhrs was designated to act for the Board and sign an Administrative Consent Order containing this disciplinary outcome.

Thereafter an ACO was signed on 8/28/09. The 18-month suspension period began on 8/31/09.

Throughout this discussion, the Respondent LSP's name was kept confidential. Now that this matter has been concluded, the LSP's name – William Baird – is being made public.

6. **Decisions Regarding License Applicants:** The staff presented the following Application Dockets:

<u>Docket No. 1:</u> The applicant's name, company name, application number, and Application Review Panel recommendation were read into the record:			
	<u>App. No.</u>	<u>ARP</u>	<u>Rec.</u>
Charles B. Schneider URS Corporation	#9548	228	A

A motion was made and seconded that the Board accept the recommendation from Application Review Panel #228, i.e., that the application submitted by Mr. Schneider be approved and that he be found eligible to take the exam. The motion was approved unanimously.

7. **License Renewal Applications:**

A. Renewal Dockets. The staff presented the following License Renewal Dockets:

Renewal Docket #1

Renewal Date: October 30, 2009

Have met all requirements for renewal.

New Renewal Date: October 30, 2012

- | | |
|----------------------|-------|
| 1. James T. Adamik | #6829 |
| 2. James R. Bossange | #7100 |
| 3. Daniel M. Lanier | #9180 |
| 4. Nancy E. Milkey | #5456 |
| 5. Byron H. Willis | #2867 |

A motion was made and seconded to renew the licenses of the LSPs on Renewal Docket #1 for a three-year period ending on the date indicated. The motion was approved unanimously.

- B. Other Renewal-related Matters.** The staff reported that no waiver requests had been received since the previous meeting, and there were no other renewal-related matters.

8. Other Licensing-Related Matters:

- A. New Panel Assignments and Scheduling.** The following Board members were assigned to Application Review Panel # 229: Ms. Commerford, Ms. Farnsworth and Mr. Franklin.
- B. Appeals Status Report.** Ms. Wood reported that there are no pending appeals regarding the Board's denial of a license application.
- C. Inactive Status Report.** Ms. Wood reported that since the previous meeting there have been no changes to the list of Inactive LSPs. Four LSPs remain on Inactive Status.
- D. Question whether an LSP is allowed to go on Inactive Status More than Once in a License Renewal Cycle.** Ms. Wood stated that an LSP has inquired whether he would be allowed to go on inactive status for a second time in the same license renewal cycle. This LSP last renewed his license on July 30, 2005. He went on inactive status at his own request in October 2006 and returned to active status two years later in October 2008. Ms. Wood explained that, pursuant to 309 CMR 9.03(4), the time the LSP spent on inactive status did not count toward the three years the LSP has to renew his license. As a result, the LSP's current license renewal date is August 31, 2010. The LSP has stated that he will be working out of the country for an extended period of time and, therefore, would like to go on Inactive Status for a second time. Ms. Wood stated that the Board's regulations do not state whether an LSP is allowed to go on Inactive Status more than once during the same license renewal cycle. After discussion, a motion was made and seconded that the LSP's request to go on Inactive Status for a second time be allowed and that this question be addressed in a future regulation change. The motion passed unanimously.
- E. License Reinstated after Suspension.** The staff reported that on 8/11/09 it had reinstated the license of James Matz (#5323) at the conclusion of his license suspension period.
- F. Total Number of Active LSPs.** Ms. Wood reported that the total number of Active LSPs as of the date of this meeting was 553.
- G. Revisions to Application Form Questions (Application Committee).** Ms. Wood reported that the Application Subcommittee had included draft revisions to Application Form questions on Form 2, Form 3, and the Reference Form. After review and discussion of the draft revisions, a motion was made and seconded to approve the revisions. The motion passed unanimously.

9. **Examinations:**

A. **New Licensees.** The staff reported that the following approved applicants passed the licensing exam administered on August 26, 2009, and are now LSPs:

1. George Lingenfelter #6173
2. Richard Learned #8740

B. **Next LSP Exam.** The staff reported that the next exam administration date is October 23, 2009.

10. **Continuing Education Committee Report:**

A. **Course and Conference Approval Requests.** Mr. Wyman reported that the Committee had met earlier in the day and had the following course recommendation to present to the full Board:

Sponsor: VeruTEK

Course Title: "Green Technologies for the Environment"

Credits Requested: 10 Non-DEP Technical Course credits

Committee Recommendation: **Conditionally Approve.** Continuing Education coordinator is to confirm with the Presenter that they will maintain a sign-in, sign-out sheet and monitor attendance following workshop requirements.

Sponsor: NewMOA

Course Title: "Contaminated Sediment Sites: Characterization and Decision-Making"

Credits Requested: 5 Non-DEP Technical Course credits

Committee Recommendation: **Approve.**

Sponsor: LSPA

Course Title: "Fracturing and Injection Technologies"

Credits Requested: 8 Non-DEP Technical Course credits

Committee Recommendation: **Approve.**

Sponsor: Northeastern University

Course Title: Various

Credits Requested: 70% Attendance, Non-DEP Technical Course Credits

Committee Recommendation: **Approve.**

Sponsor: EPA

Course Title: "RCRA Corrective Action Training: Getting to YES! Strategies"

Credits Requested: 16.5 Non-DEP Technical Course Credits

Committee Recommendation: **Conditionally Approve.** Days 1 and 2 were approved as a workshop but for only 50% credit of the full time attended

during both or either of those two days. Day 3 was not approved for any credit as the content was not deemed sufficiently relevant.

A motion was made and seconded to accept the Committee's course recommendations. The motion was approved unanimously.

B. Other Business. The Committee had no other business to report.

11. **Professional Conduct Committee:** Since all the Board members present at this meeting were also present at the meeting of the Professional Conduct Committee held earlier in the day, the Board agreed to forego a Committee report.
12. **Personnel, Budget, and Fees:** Ms. Commerford stated that the departure of Mr. Fierce from the Board staff will affect the duties of the remaining Board staff. She stated that for the immediate future Ms. Wood would serve as acting Executive Director and General Counsel pending future staffing decisions. She also stated that a second round of layoffs will likely take place in the next couple of months and, while she hopes these layoffs will not impact the remaining LSP Board staff, she can not guarantee that this will be the case.
13. **Status of Board Member Replacements by Governor:** Ms. Commerford stated that the Governor has not acted on the pending replacement request.
14. **Other Business:** The deadline for the next edition of the LSPA newsletter is October 30th. Ms. Wood stated that Mr. Stimpson of the LSPA has suggested that the Board consider writing an article profiling the members of the LSP Board and discussing both recent and proposed Board initiatives. Ms. Wood stated that Board staff would circulate a draft of the article before sending it to the LSPA.
15. **Scheduling of Next Meeting:** The Board agreed to hold its next meeting on October 29, 2009, at a location to be determined. The Board also scheduled to meeting on December 11, 2009, at a location to be determined.
16. **Enter Executive Session:** A motion was made and seconded that the Board enter Executive Session for the purposes of discussing both personnel matters and litigation strategy within the scope of the exemptions to the Open Meeting Law, and thereafter to adjourn and not return to public session. The motion was approved 7-0 on a roll call vote. Each member present voted as follows:

Ms. Batchelder	Aye	Mr. Guswa	Aye
Ms. Commerford	Aye	Ms. Latowsky	Aye
Ms. Farnsworth	Aye	Mr. Luhrs	Aye
Mr. Franklin	Aye		

At 3:43 p.m. the Board entered into Executive Session.